

## REMARKS

### Preliminary Amendment

Applicants respectfully call the Examiner's attention to a preliminary amendment submitted by Applicants and received by the Patent Office within three months of the July 17, 2003 filing date of the application, as evidenced by the return postcard attached as Exhibit A which bears a date stamp of September 29, 2003. The preliminary amendment is included in the File Wrapper under the label "Applicant Arguments/Remarks Made in an Amendment," attached herewith as Exhibit B. However, the amendment is erroneously dated July 17, 2003 (the filing date of the instant application). The File Wrapper includes an entry for a "Preliminary Amendment" dated September 29, 2003, but a document of unknown origin, a copy of which is attached as Exhibit C, is incorrectly filed under this heading.

Applicants first learned that the preliminary amendment was not entered after receiving the instant Office Action of September 29, 2005, which is based on the originally filed claims rather than the claims set forth in the preliminary amendment. Applicants brought the above facts to the Examiner's attention via a telephone conversation on October 28, 2005, and requested issuance of a new Office Action based on the claims submitted with the Preliminary Amendment. However, the Examiner indicated that a response to the current restriction requirement would be required to advance prosecution of the application. Accordingly, Applicants have submitted herewith remarks (below) and an amended claim set (beginning on page 3 of this paper) which are responsive to the Restriction Requirement of September 29, 2005.

Also submitted herein are amendments to the specification which are identical to those submitted with the preliminary amendment date stamped September 29, 2003. The amendments to the specification indicate that the present application is a divisional of, and claims priority to U.S. Patent Application Serial No. 09/844,685, filed April 27, 2001, which is now U.S. Patent No. 6,627,645, issued September 30, 2003. The '645 Patent in turn claims priority to U.S. Provisional Patent Application Serial No. 60/200,791, filed April 28, 2000. This information was recognized by the Patent Office in the first filing receipt mailed November 26, 2004, a copy of which is attached as Exhibit D. In light of the Patent Office's receipt of the preliminary amendment within the time period set forth under § 37 CFR 1.78(a)

and recognition of the benefit claim in the first filing receipt, Applicants respectfully request that the amendments to the specification be entered without a petition under 37 CFR 1.78(a) or surcharge under 37 CFR 1.17(t), as set forth in MPEP § 201.11.

#### Restriction Requirement

In light of the above-described phone conversation with the Examiner on October 28, 2005, Applicants have herein responded to the restriction requirement of September 29, 2005 by amending the originally filed claims, rather than the claims of the preliminary amendment. These changes are reflected in the current listing of claims, beginning on page 3 of this paper.

In response to the restriction requirement, Applicants hereby elect Group I, without traverse. Applicants have canceled claims 4, 9-16, 21, 26-33, and 35-76, and amended claims 1, 5, 17-18, 22, and 34 to withdraw non-elected subject matter. Accordingly, claims 1-3, 5-8, 17-20, 22-25, and 34 are currently pending. Support for the amendments is found throughout the specification (e.g., paragraphs 44-300). The amendments to the claims were made solely in response to the restriction requirement, and thus make no admission as to the patentability of the withdrawn subject matter. Applicants reserve the right to file continuation, divisional, and/or continuation-in-part applications to pursue any withdrawn subject matter.

The Examiner has also requested election of a single disclosed species pursuant to 35 U.S.C. § 121. In response to the Examiner's request, Applicants elect the compound 3-[3-(4-butyl-piperidin-1-yl)-propyl]-benzo[d]isothiazole, described, e.g., in Example 93 (paragraph 451) of the specification. Applicants respectfully submit that all of the pending claims read on the elected species.

#### CONCLUSION

Applicants have amended Claims 1, 5, 17-18, 22, and 34, and canceled claims 4, 9-16, 21, 26-33, and 35-76. No new claims have been added. Accordingly, Claims 1-3, 5-8, 17-20, 22-25, and 34 are currently pending. Applicants have also amended the specification to indicate that the instant application is a divisional of U.S. Patent Application Serial No. 09/844,685. Each of the issues raised by the Examiner in the Office Action of September 29, 2005 have been addressed by the remarks and amendments made herein. Accordingly,

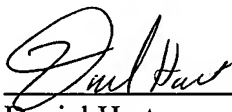
Applicants respectfully submit that the claims are in condition for allowance and request a notice to that effect.

Applicants have enclosed the fee for a five-month extension of time. If this amount is incorrect, the Director is hereby authorized to charge or credit Deposit Account No. 11-1410. If the Examiner has any questions which may be answered by telephone, she is invited to call the undersigned directly.

Respectfully submitted,

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